

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|-------------|------------------|-------------|-----------------|
| Applicant: | Armstrong | Docket No.: | ANN-F2811 |
| Serial No.: | 10/773,025 | Art Unit: | 2629 |
| Filed: | February 4, 2004 | Examiner: | Boddie, William |
| For: | Image Controller | | |

Commissioner for Patents
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INFORMATION DISCLOSURE STATEMENT

Applicant wishes to bring to the attention of the United States Patent and Trademark Office ("the *Office*") the information noted on the enclosed form PTO/SB/08A that may be considered material to the examination of the above-identified application.

This Information Disclosure Statement is submitted under 37 C.F.R. §1.97(c) after the C.F.R. §1.97(b) time period, but before the mailing date of a final action, a notice of allowance, or an action that otherwise closes prosecution in the application, and it is accompanied by the statement specified in 37 C.F.R. §1.97(e) in the following paragraph.

No item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing below after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

The documents and information contained in this Information Disclosure Statement include the daily transcripts for testimony presented during the trial of the case styled: *Anascape*,

Ltd. v. Microsoft Corp., et al. pending in the United States District Court for the Eastern District of Texas, Lufkin Division and assigned civil action number 9:06-CV-00158-RC. The trial took place over seven days between May 5, 2008 and May 14, 2008. The Anascape case is a patent infringement lawsuit originally involving twelve issued U.S. patents that are related to the above-indicated United States patent application. The plaintiff, Anascape, Ltd. (“Anascape”), is the assignee of the above-referenced patent application. Anascape asserted twelve patents against Microsoft Corporation (“Microsoft”) and Nintendo of America, Inc. (“Nintendo”). Prior to trial, Microsoft settled with Anascape and was removed from the litigation. Only U.S. Patent No. 6,906,700 (“the ‘700 patent”) was at issue during the May 2008 trial.

Applicant has previously submitted extensive Information Disclosure Statements to the Office for the present application in order to provide the Examiner with the potential prior art references that were identified by defendants Microsoft and Nintendo during the Anascape litigation. Out of an abundance of caution, Applicant has also submitted the parties’ litigation briefs and motions when those papers discuss potential prior art references and claim terms that might be considered relevant to the Examiner. In the previously submitted Information Disclosure Statements, Applicant has attempted to provide the Office with all available identifying information for the cited documents. Certain information, such as dates of publication, are not known to Applicant or Applicant’s Attorney because the references were provided by defendants Microsoft or Nintendo without full identifying information.

During trial, witnesses for the respective parties testified regarding several alleged prior art references, the alleged priority date for the ‘700 patent, and alleged inequitable conduct by the inventor, Brad Armstrong. Ultimately, the jury reached an unanimous verdict that Nintendo’s Wii Classic Controller connected to a Wii Remote controller, Nintendo’s GameCube

controller, and Nintendo's Wavebird wireless controller infringed claims of the '700 patent. The jury found that the asserted claims of the '700 patent were not anticipated and were not invalid as obvious or for failing to satisfy the written description requirement. The jury also found that the configuration of a Wii Nunchuck controller connected to a Wii Remote was not infringed by the '700 patent. In the inequitable conduct part of the case, the Court found that there was no inequitable conduct involved in the prosecution of the '700 patent or its parent, U.S. Patent No. 6,222,525.

Applicant believes that the alleged prior art information and references disclosed during the trial are cumulative of the references previously submitted to the Office for this application. For example, Nintendo's expert witness, Mr. Robert Dezmelyk, discussed the Sony Dual Shock and Dual Shock 2 controllers, the Cyberman controller, and European patent application publication EP 0 867 212 in connection with the validity of the '700 patent. These references were previously identified to the Office in the Information Disclosure Statement dated March 24, 2008 along with Mr. Dezmelyk's expert report on issues of validity and prior art.

Applicant is submitting the Anascape trial transcript in order to provide the Examiner with access to the parties' and the witnesses' statements and arguments regarding claim construction and interpretation, alleged prior art references, alleged priority dates, and alleged inequitable conduct. The following table is provided to assist the Examiner in finding the testimony of certain witnesses, such as the inventor (Brad Armstrong), the parties' expert witnesses (Robert Howe, Robert Dezmelyk, and Ed Fiorito), the parties' opening statements and closing arguments, and the testimony regarding the alleged inequitable conduct issue.

| Testimony/Statements | Starting Page | |
|------------------------------|---------------------------|----|
| Anascape's Opening Arguments | May 5, 2008 Transcript at | 99 |

| Testimony/Statements | Starting Page | |
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| Nintendo's Opening Arguments | May 5, 2008 Transcript at | 116 |
| Direct Examination of Brad Armstrong (Inventor) | | 138 |
| Direct Examination of Brad Armstrong, cont. | May 6, 2008 Transcript at | 208 |
| Cross Examination of Brad Armstrong | | 241 |
| Redirect Examination of Brad Armstrong | | 378 |
| Direct Examination of Robert Howe (Anascape's Technical Expert Witness) | | 388 |
| Cross-Examination of Robert Howe | | 448 |
| Cross-Examination of Robert Howe, cont. | May 7, 2008 Transcript at | 507 |
| Redirect Examination of Robert Howe | | 567 |
| Recross-Examination of Robert Howe | | 588 |
| Direct Examination of Robert Dezmelyk (Nintendo's Technical Expert Witness) | May 8, 2008 Transcript at | 1037 |
| Direct Examination of Robert Dezmelyk, cont. | May 12, 2008 Transcript at | 1090 |
| Cross-Examination of Robert Dezmelyk | | 1304 |
| Redirect Examination of Robert Dezmelyk | | 1367 |
| Recross-Examination of Robert Dezmelyk | | 1385 |
| Redirect Examination of Robert Dezmelyk | | 1387 |
| Direct Examination of Robert Howe (rebuttal) | May 13, 2008 Transcript at | 1412 |
| Cross-Examination of Robert Howe | | 1452 |
| Redirect Examination of Robert Howe | | 1507 |
| Anascape's Closing Argument | | 1586 |
| Nintendo's Closing Argument | | 1610 |
| Anascape's Rebuttal Closing Argument | | 1638 |
| Inequitable Conduct Evidence | | 1648 |
| Direct Examination of Brad Armstrong | | 1653 |
| Inequitable Conduct Case, cont. | May 14, 2008 Transcript at | 1706 |
| Direct Examination of Brad Armstrong, cont. | | 1707 |
| Cross-Examination of Brad Armstrong | | 1741 |
| Redirect Examination of Brad Armstrong | | 1780 |

| Testimony/Statements | Starting Page | |
|---|----------------------|------|
| Recross-Examination of Brad Armstrong | | 1809 |
| Direct Examination of Ed Fiorito (Nintendo's Inequitable Conduct Expert Witness) | | 1811 |
| Court's Ruling on Inequitable Conduct | | 1837 |
| Jury Verdict | | 1868 |

Given the large number of references cited in the present application and related applications, Applicant has attempted to aid the Examiner in finding the most relevant discussion of the application, claims and references in the table above.

The present Information Disclosure Statement further includes references recently filed with or by the Office in connection with related pending patent applications and reexaminations of related issued United States Patents.

The following table is provided to identify the pending United States patent applications that are related to the present application in case such information is useful to the Examiner.

| Attorney Docket No. | Pending Application Serial Number | - this application |
|---------------------------------|--|--------------------|
| F2811 | 10/773,025 | |
| F30.1 | 11/150,412 | |
| F28.1 | 11/241,617 | |
| F28.2 | 11/241,618 | |
| F28.3 | 11/240,331 | |
| F28.4 | 11/240,326 | |
| F28.5 | 11/240,330 | |
| F28.6 | 11/240,329 | |
| F28.7 | 11/240,112 | |
| F28.8 | 11/240,158 | |
| F28.9 | 11/240,309 | |
| F28.10 | 11/240,374 | |
| F28.11 | 11/241,455 | |
| F28.12 | 11/240,327 | |
| F28.13 - docket number not used | | |
| F28.14 | 11/240,349 | |
| F28.15 | 11/241,478 | |
| F28.16 | 11/241,330 | |
| F28.17 | 12/030,025 | |

**RELATED PENDING PATENT
APPLICATIONS**

The following table is provided to identify the pending reexamination proceedings that are related to the present application in case such information is useful to the Examiner.

| Reexamination Serial Number |
|--|
| 90/008,490 |
| 95/000,221 |
| 95/000,224 |
| 95/000,230 |
| 90/008,379 |
| 90/008,373 |
| 90/008,480 |
| 90/008,477 |
| 95/000,223 |
| 95/000,217 |
| 95/000,222 |
| 95/000,214 |
| 95/000,225 |
| 95/000,226 |
| 95/000,220 |

**RELATED PENDING
REEXAMINATION
PROCEEDINGS**

Respectfully submitted,

June 26, 2008
Date

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